

### REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-4, 9, 14, 20, 22-24 and 26 are pending in the present application. Claims 1, 22 and 27 have been amended to address cosmetic matters of form, non-cosmetic changes find support at least at Figure 8 of the specification. No new matter has been added.

By way of summary, the Official Action presents the following issues: Claims 4 and 22-24 stand rejected under 35 U.S.C. § 112, second paragraph; Claims 4, 22 and 24 stand rejected under 35 U.S.C. § 101; Claim 1 stands rejected under 35 U.S.C. § 102 as being unpatentable over Chandra et al. (U.S. Patent No. 4,903,296, hereinafter Chandra); Claims 25 and 27 stand rejected under 35 U.S.C. § 102 as being unpatentable over Heer et al. (U.S. Patent No. 5,999,629, hereinafter Heer); Claims 2 and 3 stand rejected under 35 U.S.C. § 103 as being unpatentable over Chandra; and Claims 9, 10, 14, 20 and 26 stand allowed.

Applicants appreciatively acknowledge the identification of allowable subject matter.

### APPLICATION FILING DATE

**Applicants respectfully direct the Examiner's attention to the Request for Corrected Official Filing Receipt, filed September 19, 2001. The Official Filing Receipt indicates that the present Application was filed on November 8, 2000; however, this Application was filed October 17, 2000. Applicants respectfully request that the Examiner have the Application filing date corrected accordingly.**

### REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

The Official Action has rejected Claims 4 and 22-24 under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. Applicants respectfully traverse the rejection.

Applicants note that Claims 4 and 22-24 recite an information processing apparatus. The body of the claim includes elements of the apparatus which include functional limitations which convey to a person of ordinary skill in the art how an element such as a “program execution controller” is configured relative to a general purpose controller. In other words, components which include an aspect of programmability must by their nature include a limitation as to function so as to differentiate these elements from general purpose elements. As can be appreciated, “there is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper.” *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971). (emphasis added) See also M.P.E.P. § 2173.05(g).

Moreover, Applicants note that Claims 4 and 22-24 are not hybrid claims. In other words, there is no method of use recited in the claim which refers to how the information apparatus is to be used, instead, there are merely functional limitations which further qualify the elements of the information apparatus.

Indeed, the language of Claim 22 which recites “authentication means for employing the lock key held in the memory when transmitting and receiving data to and from the other apparatus to make mutual authentication with the other apparatus to generate a communication key” recites a claim terminology under 35 U.S.C. § 112, sixth paragraph. By its very definition, this means plus function element **must include a recited function**. This function does not recite a method of using the information apparatus, but, recites the function of a subcomponent of the apparatus. Accordingly, the Official Action’s reliance on M.P.E.P. § 2173.05 seems misplaced.

Accordingly, Applicants respectfully request that the rejection of Claims 4 and 22-24 under 35 U.S.C. § 112, second paragraph be withdrawn.

REJECTION UNDER 35 U.S.C. § 101

The Official Action has rejected Claims 4, 22 and 24 under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter. Applicants respectfully traverse the rejection.

As noted above, Claims 4, 22 and 24 are directed to an information apparatus. The information apparatus defined in these claims is comprised of elements which include functional limitations. The Official Action of August 22, 2006, mistakenly relies on *ex parte Lyell*, 17 USPQ2d 1548 (Bd. Pat. App. & Inter. 1990). Upon review of the claim at issue in this case you will note that the claim recites, *inter alia* a transmission repair tool in the form of a work stand ... **the method of using same in repairing automatic transmissions**". As can be appreciated from the above, this claim is clearly a hybrid claim in that it recites a method of using the claimed apparatus. As can clearly be appreciated from the text of the Applicants' claims, the Applicants' claims recite an apparatus including elements of the apparatus which recite functional limitations defining the interrelationship of the elements, this is clearly proper. In other words, the functional limitations of the elements of the Applicants' claims do not recite a method of using the information apparatus, but, instead, recite functions of, in some cases, programmable elements which can be defined in no other way for differentiating these elements from general purpose programmable elements.

Accordingly, Applicants respectfully request that the rejection of Claims 4, 22 and 24 under 35 U.S.C. § 101 be withdrawn.

REJECTION UNDER 35 U.S.C. § 102

The Official Action has rejected Claim 1 under 35 U.S.C. § 102 as being unpatentable over Chandra. The Official Action states that Chandra discloses all the Applicants' claim limitations. Applicants respectfully traverse the rejection.

Chandra describes a software copy protection scheme in which software is distributed on a disk having specialized indicia recorded thereon which is not modifiable by a disk write process.<sup>1</sup> As shown in Figures 2.0-2.3, special indicia markings are provided on the disk which are used in cooperation with support hardware in which the disk markings are utilized as a key for decrypting the software on the disk.<sup>2</sup> As any pirating of the disk would necessitate copying the marks on the disk which are not readily made by conventional hardware, piracy is avoided. Likewise, as the decryption of the software is limited to a specific hardware support device, the software is not readily transferred to a further hardware device.<sup>3</sup>

Conversely, in an exemplary embodiment of the Applicants' invention, an information processing apparatus is provided with a content data storage area which includes content data and content management information for managing the content data. The content management information is analyzed to ensure that it is not falsified by computing a current hash value of the management information and comparing the computed hash value with a past hash value computation of the management information. Chandra describes that copying is prevented only on the computing machine containing the tamperproof co-processor by computing marks of a disk. Chandra compares physical marks on a disk. Thus Chandra does not describe accessing content of the disk and computing a hash value for comparison to a past computation of a hash value. Accordingly, Chandra does not disclose or

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<sup>1</sup> Chandra at column 13, lines 11-19.

<sup>2</sup> Chandra at column 7, lines 34-53.

<sup>3</sup> Chandra column 8, lines 1-20.

suggest Applicants' information processing apparatus as recited in Applicants' amended Claim 1, nor any claim dependent therefrom by virtue of claim dependency.

Accordingly, Applicants respectfully request the rejection of Claim 1 under 35 U.S.C. § 102 be withdrawn.

The Official Action has rejected Claims 25 and 27 under 35 U.S.C. § 102 as being anticipated by Heer. The Official Action states that Heer discloses all the Applicants' claim limitations. Applicants respectfully traverse the rejection.

As Applicants have canceled Claim 25 and have incorporated the limitations of allowed Claim 26 into Claim 27, Applicants respectfully submit that this rejection has been rendered moot.

#### REJECTION UNDER 35 U.S.C. § 103

The Official Action has rejected Claims 2 and 3 under 35 U.S.C. § 103 as being unpatentable over Chandra. The Official Action contends that Chandra discloses or suggests all of the Applicants' claim limitations. Applicants respectfully traverse the rejection.

As noted above, Chandra does not disclose all of the limitations for which it has been asserted with respect to the amended claims. Accordingly, Applicants respectfully submit that a *prima facie* case of obviousness has not been presented. As Chandra does not disclose or suggest all of the Applicants' claim limitations as recited in Claims 2 and 3, Applicants respectfully request that the rejections of Claims 2 and 3 under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

Consequently, in view of the foregoing amendment and remarks, it is respectfully submitted that the present application, including Claims 1-4, 9, 14, 20, 22-24 and 26, are patentably distinguishing over the prior art, in condition for allowance, and such action is respectfully requested at an early date.


Respectfully submitted,

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